

**FILED**MHP  
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AUG 26 2008

RICHARD W. WIERING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**Name Muhammad Ansar EL  
(Last) (First) (Initial)Prisoner Number ALD-488 SANTA RITA JAILInstitutional Address 5325 Broderick Blvd  
DUBLIN CA 94568**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**Ansar EL Muhammad

(Enter the full name of plaintiff in this action.)

vs.

Sheriff ALLEN

(Enter the full name of respondent(s) or jailor in this action.)

Case No. 08

(To be provided by the clerk of court)

**4069****PETITION FOR A WRIT  
OF HABEAS CORPUS****E-filing****(PR)**Read Comments Carefully Before Filling InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or  
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which  
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper  
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief  
7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose  
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack  
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

- 12 (a) Name and location of court that imposed sentence (for example; Alameda  
13 County Superior Court, Oakland):

14 Superior Court Oakland  
15 Court Location

- 16 (b) Case number, if known N/A

- 17 (c) Date and terms of sentence N/A

- 18 (d) Are you now in custody serving this term? (Custody means being in jail, on  
19 parole or probation, etc.) Yes Y No

20 Where?

21 Name of Institution: Santa Rita County Jail

22 Address: 5325 Beale Blvd

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for  
24 more than one crime, list each crime separately using Penal Code numbers if known. If you are  
25 challenging more than one sentence, you should file a different petition for each sentence.)

26 This is for a Special Condition while I  
27 am lock down, it deals with Religion  
28

3. Did you have any of the following?

Arraignment: Yes \_\_\_\_\_ No X  
 Preliminary Hearing: Yes \_\_\_\_\_ No X  
 Motion to Suppress: Yes \_\_\_\_\_ No X

4. How did you plead?

Guilty \_\_\_\_\_ Not Guilty \_\_\_\_\_ Nolo Contendere \_\_\_\_\_

Any other plea (specify) N/A

5. If you went to trial, what kind of trial did you have?

Jury \_\_\_\_\_ Judge alone \_\_\_\_\_ Judge alone on a transcript X

6. Did you testify at your trial? Yes \_\_\_\_\_ No X

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes X No \_\_\_\_\_  
 (b) Preliminary hearing Yes X No \_\_\_\_\_  
 (c) Time of plea Yes X No \_\_\_\_\_  
 (d) Trial Yes X No \_\_\_\_\_  
 (e) Sentencing Yes X No \_\_\_\_\_  
 (f) Appeal Yes \_\_\_\_\_ No X  
 (g) Other post-conviction proceeding Yes \_\_\_\_\_ No X

8. Did you appeal your conviction? Yes \_\_\_\_\_ No X

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes \_\_\_\_\_ No X

Year: \_\_\_\_\_ Result: \_\_\_\_\_

Supreme Court of California Yes \_\_\_\_\_ No X

Year: \_\_\_\_\_ Result: \_\_\_\_\_

Any other court Yes \_\_\_\_\_ No X

Year: \_\_\_\_\_ Result: \_\_\_\_\_

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes \_\_\_\_\_ No X

(c) Was there an opinion? Yes \_\_\_\_\_ No X

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes \_\_\_\_\_ No X

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes \_\_\_\_\_ No X

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: GRIEVANCE ML-51

Type of Proceeding: GRIEVANCE

Grounds raised (Be brief but specific):

a. Religion

b. having Religious Services

c. allowing diet accordingly

d. \_\_\_\_\_

Result: None Date of Result: 7-8-08

II. Name of Court: \_\_\_\_\_

Type of Proceeding: N/A

Grounds raised (Be brief but specific):

1 a. \_\_\_\_\_  
 2 b. \_\_\_\_\_  
 3 c. \_\_\_\_\_  
 4 d. \_\_\_\_\_  
 5 Result: Ø Date of Result: Ø  
 6 III. Name of Court: Ø  
 7 Type of Proceeding: Ø  
 8 Grounds raised (Be brief but specific):  
 9 a. \_\_\_\_\_  
 10 b. \_\_\_\_\_  
 11 c. \_\_\_\_\_  
 12 d. \_\_\_\_\_  
 13 Result: Ø Date of Result: Ø  
 14 IV. Name of Court: Ø  
 15 Type of Proceeding: Ø  
 16 Grounds raised (Be brief but specific):  
 17 a. \_\_\_\_\_  
 18 b. \_\_\_\_\_  
 19 c. \_\_\_\_\_  
 20 d. \_\_\_\_\_  
 21 Result: \_\_\_\_\_ Date of Result: \_\_\_\_\_

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes \_\_\_\_\_ No Ø

Name and location of court: Santa Rita County Jail  
5325 Broderick Blvd

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: Not having religious services

6  
7 Supporting Facts: I've turned in GRIEVANCE  
8 on 7-8-08 and Chaplin nor Sherrell F  
9 Ahern responded to allegation

10  
11 Claim Two: I wrote letter to Chaplin

12  
13 Supporting Facts: NO RESPONSE AS WELL

14  
15  
16  
17 Claim Three: I turn in GRIEVANCE FORM MC  
18 51

19 Supporting Facts: They would not except the  
20 Forum From MC

21  
22  
23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:

25 All grounds presented

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 Religious Land Use and Institutionalized  
5 Person Act of 2000

6  
7 Do you have an attorney for this petition?

Yes \_\_\_\_\_ No X

8 If you do, give the name and address of your attorney:

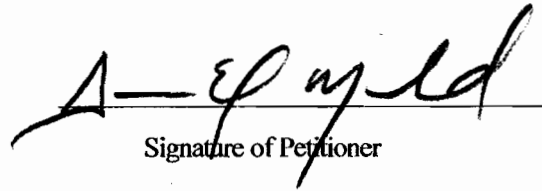
9 Ansar EL Muhammad

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on

8-7-08

14 Date

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25  
26  
27  
28  
  
Signature of Petitioner

(Rev. 6/02)

**ALAMEDA COUNTY SHERIFF'S OFFICE  
SANTA RITA JAIL  
INMATE GRIEVANCE FORM**

NAME: Bennett / Anwar EL Muhammad PFN: ALD-493  
HOUSING UNIT: 9-E-1 DATE: 8-5-08

NATURE OF GRIEVANCE: ( Give specific details )

Every prisoner has a right to hold a religious belief and a limited right to practice it while in prison. Since I've been coming to Santa Rita I have yet to endure a Islamic Function, even this time while I'm here, and I've been here now for 3 months and 9 days and I request that we be allowed Jumma services on Friday without any success, I wrote to the Chaplain without any success, I even wrote a Grievance on July 08 and it still hasn't return. So I am forced to use the Inmate Grievance Form MC-51 once again.

Congress has enacted Section 3 of the Religious Land Use and Institutionalized Person Act of 2000 RLUIPA to return the query to the compelling state interest test. Specifically, the statute provides that no government shall impose a substantial burden on the religious exercise of a person confined in an institution unless the burden furthers a compelling governmental interest by the least restrictive means, money that is suppose to be use for Religion is being use for personal self gain and be switch over to other needs of the institution

\*\*\* DO NOT WRITE ON THE BACK OF THIS FORM. USE ANOTHER FORM, WRITE PAGE 2

INMATE SIGNATURE: T. J. [Signature]

\*\*\* DO NOT WRITE BELOW THIS LINE - ADMIN USE ONLY \*\*\*

RECEIVED BY DEPUTY: \_\_\_\_\_ BADGE #: \_\_\_\_\_ DATE: \_\_\_\_\_

☐ RESOLVED - INMATE ACCEPTANCE: \_\_\_\_\_  
EXPLAIN RESOLUTION ON REVERSE SIDE.

☐ CAN NOT BE RESOLVED AT THIS LEVEL  
DRAW TRACKING NUMBER FROM CP- 01

FORWARDED TO SGT. \_\_\_\_\_ TRACKING NUMBER: \_\_\_\_\_

**ALAMEDA COUNTY SHERIFF'S OFFICE  
SANTA RITA JAIL  
INMATE GRIEVANCE FORM**

NAME: Bennett/Ansar EL Muhammad PFN: \_\_\_\_\_  
HOUSING UNIT: \_\_\_\_\_ DATE: \_\_\_\_\_

NATURE OF GRIEVANCE: ( Give specific details )

RLUIPA which applies when a state receives Federal Funding for the institution then the First Amendment Establishment Clause is violated. Section Five of the Fourteenth Amendment. As all states as of 2003 receive Federal for their Prison, it appears that California is subjected to RLUIPA

Some cases originally decided under the compelling state interest test are as follows.

- (1) Gathering for collective services
- (2) Having a minister or residential minister of a particular religion present
- (3) Possessing religious literature
- (4) Following a special Diet
- (5) Corresponding with religious leaders

\*\*\* DO NOT WRITE ON THE BACK OF THIS FORM. USE ANOTHER FORM, WRITE PAGE 2

INMATE SIGNATURE: T. J. A. J.

\*\*\* DO NOT WRITE BELOW THIS LINE - ADMIN USE ONLY \*\*\*

RECEIVED BY DEPUTY: \_\_\_\_\_ BADGE #: \_\_\_\_\_ DATE: \_\_\_\_\_

☐ RESOLVED - INMATE ACCEPTANCE: \_\_\_\_\_  
EXPLAIN RESOLUTION ON REVERSE SIDE.

☐ CAN NOT BE RESOLVED AT THIS LEVEL  
DRAW TRACKING NUMBER FROM CP- 01

FORWARDED TO SGT. \_\_\_\_\_ TRACKING NUMBER: \_\_\_\_\_

COPIES: White - Staff use  
Yellow - Inmate Receipt Copy

ML - 51 (rev 8/06)

JS 44 - CAND (Rev. 11/04)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO.)

I.(a) PLAINTIFFS Ansar EL MuhammadDEFENDANTS SHERIFF AHERN

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

Alameda

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

Alameda

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Ansar EL Muhammad

ATTORNEYS (IF KNOWN)

## II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☒ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For diversity cases only)

Citizen of This State

☒ PTF ☐ DEF

Incorporated or Principal Place of Business in This State

☐ PTF ☐ DEF

Citizen of Another State

☐ 2 ☐ 2

Incorporated and Principal Place of Business in Another State

☐ 5 ☐ 5

Citizen or Subject of a Foreign Country

☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

☒ Original Proceeding☐ Removed from State Court☐ Remanded from Appellate Court☐ Reinstated or Reopened☐ Transferred from Another district (specify)☐ Multidistrict Litigation☐ Appeal to District Judge from Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury Med Malpractice <input type="checkbox"/> 365 Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl.Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (US Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/CC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Amer w/ disab - Empl <input type="checkbox"/> 446 Amer w/ disab - Other <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motion to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## VI. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

## VII. REQUESTED IN COMPLAINT:

Religious "RLUIPA"

UNDER F.R.C.P. 23

DEMAND \$ ☐ CHECK YES only if demanded in complaint:JURY DEMAND: ☐ YES ☐ NO

## VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

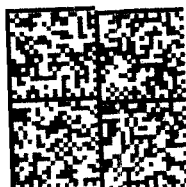
☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE

SIGNATURE OF ATTORNEY OF RECORD

8-8-08A - Ely

Bennett ALQ-488 9E-1  
5325 Broder Blvd  
Dublin, CA 94568



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P.O. Box 36060  
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RICHARD W. WIEKING

CLERK, U.S. DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

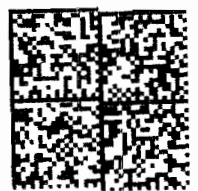
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indigent  
ATE SERVICES

ANNA EL MICHAMMA  
c/o Kenneth ALP-488 9E-1  
5325 Broderick Blvd  
Dublin, CA 94568



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STATE SERVICES  
TIT: INDIANT

JUT (A & B / final)

V. CABELLO #1681

8-14-08

BENNETT, T,

ALQ 488

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